



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

JAN - 3 2013

Mr. Ethan D. Irwin

Home Address / Ex. 6

Dear Mr. Irwin:

The Public Petition dated October 23, 2012, for Superfund Designation to the United States Environmental Protection Agency and the United States Navy for the Bethpage Grumman/Navy Site in Bethpage, New York has been forwarded to me for reply. The petition, which you signed in conjunction with other citizens, requests that the Environmental Protection Agency (EPA) conduct an environmental assessment of the site, which EPA recognizes as the Northrop Grumman Corporation (Grumman) site. The petition requests EPA to investigate and delineate the extent of contamination of soils, waters and air from this site and include the site on the Superfund National Priorities List (NPL).

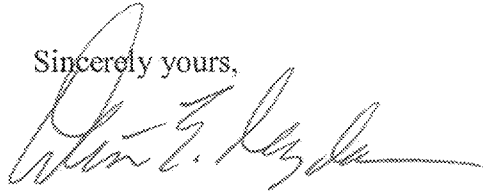
The site consists of the former Naval Weapons Industrial Reserve Plant Site and the former Grumman Aerospace site. Activities conducted at these sites included engineering, administrative, research and development, and testing operations, as well as manufacturing operations for the Navy and the National Aeronautics and Space Administration. As you may be aware, the Grumman site is permitted under the federal Resource Conservation and Recovery Act (RCRA) because it managed hazardous wastes and operated as a storage facility under the RCRA definition.

Currently, an extensive remedial investigation and corrective action are being managed by the New York State Department of Environmental Conservation (NYSDEC) with federal oversight under the RCRA Subtitle C authority. It is EPA's policy to defer facilities that may be eligible for inclusion on the NPL to the RCRA program if they are subject to corrective action authority. Attached please find a copy of the *Federal Register* notice describing EPA's authority to address such sites.

Based on the above, the EPA does not believe an assessment pursuant to a National Priorities List designation is warranted for this site. The EPA is committed to a cleanup that is conducted in the most efficient and timely manner with input from the affected communities. The EPA will continue to work with the NYSDEC, Navy, Grumman, impacted water suppliers and the public to formulate a strategy that sets priorities, thoroughly evaluates viable alternatives and leads to a comprehensive solution that protects public health and the environment at the site.

If you have any further questions concerning remedial activities at the site, please contact Carol Stein, Remedial Project Manager at (212) 637-4181. Questions concerning Superfund designation should be directed to Mel Hauptman, Chief of the Pre-Remedial Section at (212) 637-4338.

Sincerely yours,

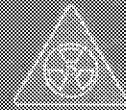
A handwritten signature in dark ink, appearing to read "Walter E. Mugdan", with a long horizontal flourish extending to the right.

Walter E. Mugdan, Director
Emergency and Remedial Response Division

Attachment

cc: Robert Schick, NYSDEC
Richard Mach, Jr., USN

NEWS



THE NUCLEAR
INDUSTRY PRODUCED
18 500 METRIC TONS
OF SPENT FUEL IN 2011



A FISSION-FUSION FUSION

Could a marriage of
fusion and fission reactors
save both technologies?

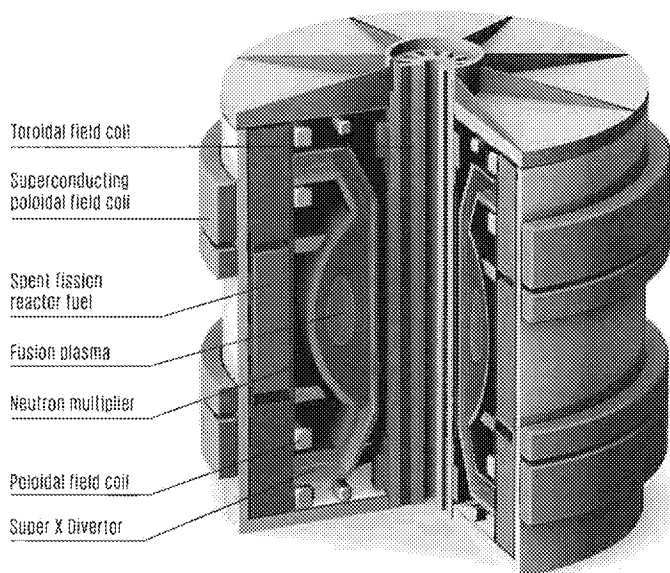
BY WILLIAM SWEET



What if you could help solve the nuclear waste problem and at the same time give fusion research a new raison d'être? A trio of physicists at the University of Texas at Austin have dreamed up a trick to pair nuclear fusion and fission in a way they think could open more promising futures for both technologies.

FUEL POOL: A fusion generator could make the fuel rods removed from this fission reactor safer to store.

Their idea is to surround a compact, circular tokamak fusion reactor they have devised with a ring containing the most noxious waste products from nuclear power plants. Neutrons emanating from the fusion reactor would break down long-lived transuranic radioactive wastes from spent fuel and turn them into much shorter-lived elements. The net effect would be to convert high-level radioactive wastes containing elements like americium and curium, which need to be stored safely for 100 000 years or more—a problem that has derailed big storage projects like Yucca Mountain—into fission products, such as barium, that fully decay in hundreds of years.



TRANSMUTING TOKAMAK: Toroidal and poloidal magnetic fields compress a deuterium and tritium plasma until it fuses, releasing a dense shower of neutrons, charged particles, and unburned fuel. The neutrons smash into a blanket of spent fission fuel that surrounds the fusion reactor, transmuting the more dangerously radioactive elements in the spent fuel into shorter-lived isotopes. Meanwhile, the hot unburned fuel is swept away by the Super X Divertor.

But this scheme wouldn't work unless scientists and engineers could come up with a neutron source that was simultaneously intense and compact. A source like that would have its own waste disposal problem: The plasma core would emit heat and a flow of particles so intense they would destroy the machine.

In a standard tokamak, magnetically confined deuterium and tritium fuse in a plasma, releasing neutrons, electrons, and alpha particles (helium nuclei). The magnetic field lines confining the plasma consist of open regions—where the lines penetrate the reactor—and closed regions, where they form self-contained ovoids. At the so-called X-point where the lines are open, the plasma can be tapped to let unburned ions escape, transferring their heat to a metallic plate. The rub is that in some tokamaks, that concentrated stream of plasma would melt any conceivable plate.

The Texas team of researchers—Swadesh Mahajan, Mike Kotschenreuther, and Prashant Valanju—came up with the idea of redesigning the fields to broaden the X-point and channel the ash stream into a divertor, where they would place a second

X-point well away from the main plasma. Fanning out from the second X-point, the wider waste stream would be able to transfer 5 to 10 times as much heat, or 10 megawatts of heat per square meter.

This design, called the Super X Divertor, will be put to the test as a centerpiece of a £30 million (US \$48 million) upgrade to the MAST, or Mega Amp Spherical Tokamak, at the Culham Science Center in Abingdon, England, according to the center's CEO, Steve Cowley.

The researchers at Culham aren't really interested in turning this tokamak into a spent fuel transmutation unit, but the 12-year-old fusion machine, when upgraded and operating again in 2015, will be similar to such a unit. In the transmutation scheme, a modular spherical tokamak is surrounded by a blanket of spent fuel rods. The physical arrangement is rather like that of a standard fast-breeder reac-

tor, in which neutrons emitted from a core of plutonium or highly enriched uranium are captured in a blanket consisting of nonfissionable uranium-238, which transmutes to fissionable plutonium. The Super X Divertor will make it possible to design and build a tokamak compact enough to emit the dense cloud of neutrons needed to transmute nuclear wastes.

For the record, the Texas team is not the first to propose using fusion-generated neutrons to chop the half-lives of fission wastes. Ideas for fission hybrids have been kicking around since the 1950s. Several years ago, Weston M. Stacey of Georgia Tech came up with what Mahajan calls the "canonical concept" for a hybrid in which a fission reactor would be embedded inside a large tokamak, a vision Stacey calls the Subcritical Advanced Burner Reactor.

Separately, the Nobel Prize-winning physicist Carlo Rubbia has talked up the idea for two decades of having protons from an accelerator bombard a target, knocking off neutrons, which in turn do the work of fracturing transuranics. A test of that approach began last January, at the Belgian Nuclear Research Centre, in Mol, when an accelerator and reactor were linked for the first time.

An obvious problem with Stacey's hybrid is how to implant and remove fuel from—not to mention maintain—a fission reactor that is surrounded by a tokamak generating hugely energetic plasma fluxes. The obvious problems with accelerator-driven systems, says Mahajan, are their relatively unattractive neutron economics and the rather Rube Goldberg-esque sense of the overall system design.

But the Texas approach also could look increasingly like one of Goldberg's mad engineering drawings as the specific details are fleshed out. For example, for the transuranic waste to be fully converted to shorter-half-life elements, three stages of fuel reprocessing would be required, with extracted elements reinserted into the tokamak blanket for further fissioning. Right now only the Super X Divertor is a well-developed design. ■

The ITER fusion device now under construction will exceed 5000 metric tons. A hybrid fission-fusion reactor would weigh less than 700 metric tons.

December 8, 2012

Matthew Fowler
Hearing Representative
Department of Labor (EEOICPA)
Final Adjudication Branch
P.O. Box 77918 Washington,
D.C. 20013-7918
866-538-8143 F: 202-513-6401

cc: Franklin T. Gerlach, Esq.
Gerlach & Gerlach Attorneys at Law
814 7th Street
Portsmouth, OH 45662
740.354.7755 Fax: 740.354.6496
lawyergg@zoomnet.net

Dr. Carmine F. Vasile
60 Herbert Circle
Patchogue, NY 11772
631-758-6271 Cell: 631-07-7839
Fax: 631-730-3918

Additional Evidence Grumman Aerospace Corporation
is a Covered Contractor, Subcontractor & Should be a Covered Facility
Re: DOL/EEOICPA File Number: xxx-xx-1378

Dear Mr. Fowler: Exhibits II-IV contain additional information requested by you at my November 13, 2012 Hearing in support of my testimony and my **"2nd OBJECTION Based on New Evidence of Waste, Fraud & Abuse"** dated November 10th 2012 -- three (3) days before my November 13th Hearing. These Exhibits relate to Grumman Aerospace Corporation (hereinafter "Grumman").

Material Facts Overlooked By Kimberly Bender, Amrene K. Smith, Tracy Smart, Lora Yancy, David F. Howell, Amanda Wine, Glen S. Podansky, Rachel P. Leiton & Others

Kimberly Bender, Amrene K. Smith, Tracy Smart, Lora Yancy, David F. Howell, Amanda Wine, Glen S. Podansky and Rachael P. Leiton (Director, DEEOIC, DOL) knew or should have known President Truman signed the McMahon/Atomic Energy Act on August 1st 1946, transferring control of atomic energy from military to civilian hands on January 1st 1947.

Upon classified information, belief, and Exhibits II & III, there can be no question that Grumman's nuclear programs for weapons, space, propulsion, nuclear-power generation, etc., were funded by the Atomic Energy Commission (AEC) and its successors before and after 1975 -- the year the AEC was split into the Nuclear Regulatory Commission (NRC) & Energy Research and Development Administration (ERDA). In 1977, ERDA was combined with the Federal Energy Administration (FEA) to form the U.S. Department of Energy (DOE).

Table I identifies ERDA & DOE funded programs which provide proof Grumman's facilities in Bethpage, NY & Calverton, NY are, in fact, covered facilities according to the EEOICPA Rules & Definitions cite in Table II: ***Rules In EEOICPA Procedure Manual 2-500 Sections That Kimberly Bender Disregarded and/or Misrepresented.*** As noted in Exhibit I, Grumman was ***".... a prime AEC/ERDA/DOE contractor & sub-contractor before becoming Northrop-Grumman in 1994"***. See Exhibits II, III, IV & Table I.

Years	<u>Table I. Grumman/ERDA/BNL/DOE Reports</u>
1976	Tokamak Fusion Test Reactor Report, (ERDA Contract EY-76-C- 02-3073): <i>"MANUFACTURING ASPECTS OF TOROIDAL FIELD MAGNETS FOR TOKAMAK POWER REACTORS"</i> by Gray E. Smith, Grumman Aerospace Corporation, Bethpage, NY
1976/77	<i>"TOKAMAK FUSION TEST REACTOR VACUUM - VESSEL - DEVELOPMENT OF ELECTRICAL RESISTANCE BELLOWS"</i> by Joseph Wittko, Grumman Aerospace Corporation, Bethpage, NY 11714 & Nicholas V. Kownouras, EBASCO Services Inc., New York, NY. 10007 [ERDA Contract E(II-I) - 3073 with Princeton University, Princeton, NJ another covered EEOICPA facility]
1981 Syr plan for 1982 to 1987	<i>"NEUTRAL BEAM DEVELOPMENT PLAN - FY 1982 - 1987"</i> , Magnetic Fusion Energy: TIC-45001 (September 1981 BNL--S1436, DE82 006122); Research Sponsored by DIVISION OF MAGNETIC FUSION ENERGY UNITED STATES DEPARTMENT OF ENERGY, WASHINGTON, D.C., BNL's NEUTRAL BEAM DEVELOPMENT GROUP ACCELERATOR DEPARTMENT. [See: XI. Organization and Grumman Participation, pg 38 & Acknowledgements: <i>"The program schedule and budget evaluation was a collaborative effort of the BNL staff and personnel of the Grumman Aerospace Corporation"</i>
Before 1987	BNL--39695 <i>"NUCLEAR PROPULSION SYSTEMS FOR ORBIT TRANSFER BASED ON THE PARTICLE BED REACTOR"</i> by J. R. Powell, et. al., Brookhaven National Laboratory, Upton, NY 11973 & M. Solon, et. al. Grumman Aerospace Corporation, Bethpage, NY & B. Short, et. al., Babcock and Wilcox, Lynchburg, VA & R. Boyle et al Garrett Corporation, Phoenix, AZ 85010
Before 1993	<i>"UTRLA VIOLET FREE ELECTRON LASER FACILITY PRELIMINARY DESIGN REPORT"</i> , BNL-48565 (DE93 009360). <i>NOTE: "Design and construction of such a gun (Gun II) has begun under a joint Grumman-Brookhaven National Laboratory (BNL) research collaboration."</i> (Quote from pg. II.A.3.a-1, before JANUARY 1993)
11/87 to 5/95	<i>"SPACE NUCLEAR THERMAL PROPULSION PROGRAM FINAL REPORT"</i> [SNTF] by R.A. Haslett, Grumman Aerospace Corporation, Oyster Bay Road, Bethpage, NY 11714, Final Report, May 1995 from http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA305996

Contrary to Kimberly Bender, Amrene Katherine Smith, Tracy Smart, Lora Yancy, David F. Howell, Amanda Wine, Glenn S. Podonsky, (DOE's Chief Health, Safety and Security Officer, Office of Health, Safety and Security), Grumman had many major contracts, subcontracts and teaming arrangements with BNL, DOE and its predecessors that should make it a covered facility according to the definitions in Table II.

Grumman's Schwendler Development Center (Plant 14)

While employed by Grumman, I was based in several facilities depending on which program I was assigned to – including the Schwendler Development Center in Plant 14, which contained a 4000 sq. ft. facility System Integration/Simulation Laboratory to support the SNTP program cited in Table I and many classified DOE/BNL projects – even with the former **Soviet Union at the Russian Scientific Industrial Association "Lutch."**, e.g.:

14. Abstract The SNTP Program was an advanced technology development effort aimed at providing the Nation a new, dramatically higher performing rocket engine that would more than double the performance of the best conventional chemical rocket engines. The program consisted of three phases. Phase I ran from November 1987 through September 1989. The objective of this phase was to verify the feasibility of the Particle Bed Reactor (PBR) as the propulsion energy source for the upper stage of a ground-based Boost Phase Intercept (BPI) vehicle. The BPI mission was of interest to the Strategic Defense Initiative Organization (SDIO) who sponsored the program. Phase II started under SDIO control and was transferred to the Air Force (AF) in October 1991. The BPI mission was de-emphasized, and engine requirements were revised to satisfy more general AF space missions. The goal of Phase II was to perform a ground demonstration of a prototypical PBR engine. (Exhibit II, pg. i/ii)

15. Subject Terms Space Nuclear Thermal Propulsion, Particle Bed Reactor, SNTP, Timberwind, Hydrogen (Exhibit I, pg. i/ii)

The program was terminated in January 1994, prior to the completion of Phase II. The flight demonstration of the SNTP system in Phase III was, therefore, never initiated. This report summarizes Phase II of the program. The Particle Bed Reactor (PBR) concept that was the basis of the SNTP engine system was conceived by Dr. James Powell of Brookhaven National Laboratory in the late 70's. Dr. Powell presented his concept to Grumman in 1982, and it was quickly recognized that the PBR's features of small size and light weight made it ideal for space applications. Over the next several years, a team was assembled to study and evaluate the engineering feasibility of the PBR. The program was terminated in January 1994, prior to the completion of Phase II. The flight demonstration of the SNTP system in Phase III was, therefore, never initiated. This report summarizes Phase II of the program. The Particle Bed Reactor (PBR) concept that was the basis of the SNTP engine system was conceived by Dr. James Powell of Brookhaven National Laboratory in the late 70's. Dr. Powell presented his concept to Grumman in 1982, and it was quickly recognized that the PBR's features of small size and light weight made it ideal for space applications. Over the next several years, a team was assembled to study and evaluate the engineering feasibility of the PBR. (Exhibit II, pg. 1-1)

The several diverse organizations that were assembled to conduct the program included two (2) national laboratories; Sandia National Laboratories (SNL) and Brookhaven National Laboratory (BNL); and an industrial team that included Grumman, Babcock & Wilcox, Allied Signal, Aerojet, Hercules, General Dynamics and several smaller specialized companies as shown in Figure 1-2. Near the end of the program, new advanced nuclear fuel technology was uncovered in the former **Soviet Union at the Russian Scientific Industrial Association "Lutch."** Negotiations had been completed with "Lutch" and a contract was about to be placed with them to import the technology, thus making the program international in scope. (Exhibit II, pg. 1-2)

4.8.3 System Integration/Simulation Laboratory: In support of the SNTP program, Grumman established a 4000 sq ft facility within the Schwendler Development Center in Building 14, Bethpage, NY. (Exhibit II, pg. 4-86, Exhibit II)

Another major activity in the materials area was the development of coating systems. The efforts related to coating the fuel particles were done within that work package (WBS 1.5) primarily by BNL and B&W. The coating activities related to the non-fuel components were coordinated by Grumman to make the data available for all the carbon based components - graphite and carbon-carbon hot frits and carbon-carbon pressure vessel, nozzle and turbine. The primary organizations for development and evaluation of the non-fuel coatings were BNL and Hercules. BNL concentrated on the hot frit development. The capability at BNL was limited to testing small samples at prototypic temperatures, low to moderate pressure, long duration and low hydrogen flow. (Exhibit II, pg. 4-89)

Fraud by DOE Officials Too

Exhibit IV contains a letter to Kimberly Bender dated August 7th 2012 in which I complained to no avail, e.g.:

Ms. Bartos aided and abetted Podansky's fraud on me and my Congressman by concealing the AEC/DOE/OSTI database @ www.osti.gov/energycitations. Had this not been done, I would have searched these key words "**Grumman+BNL**" & "**Grumman + BNL+Nuclear Propulsion**" and found dozens of reports contradicting the following false allegation to Rep. Bishop by Podansky & suborned by DEEOIC Director Leiton.

• *"On May 24, 2010, BNL informed us that in the past 18 years BNL has done very little business with Northrup-Grumman; perhaps only 3 relatively small contracts. Therefore, it is unlikely that Northrup-Grumman informed its*

employees about EEOICPA.”

To the contrary, searching only “**Grumman+BNL+Nuclear Propulsion**” yielded 51 matches; the first 25 of which are identified in Exhibit C.

Therefore, please take appropriate action to:

1. Have Grumman declared a listed facility and Grumman workers eligible for EEOICPA benefits;
2. Grant me an extension until I hear from **DOE Headquarters FOIA Office** for information that should have been provided to me by you or Ms. Bartos over a year ago.

Finally, unless you take action to expedite matters, I will not be able to comply with your requests for employee Affidavits in a time to meet your deadlines, or afford anti-radiation medication not covered by Medicare.

Nevertheless, in her latest Recommended Decision, Ms. Bender even contradicted BNL’s letter to Mr. Podansky by stating: Bender “**Northrop-Grumman is known to have had a contract [NOT THREE] with the Brookhaven National Laboratory during the 1990’s**”, which is clearly contradicted by Table I.

History of Grumman’s Contaminated Long Island Locations

(See http://en.wikipedia.org/wiki/Grumman_Aerospace#History)

Kimberly Bender, Amrene K. Smith, Tracy Smart, Lora Yancy, David F. Howell, Amanda Wine, Glen S. Podansky knew or should have known that for much of the Cold War period Grumman was the largest corporate employer on Long Island. As its Long Island divisions grew, it moved to Valley Stream, NY then Farmingdale, NY, finally to Bethpage, NY, with testing and final assembly facilities located at the 6,000-acre Naval Weapons Industrial Reserve Plant (NWIRP) in Calverton, NY – located a few miles east of the Brookhaven National Laboratory (BNL) – well within BNL’s then secret radioactive fallout zone. The Grumman-managed NWIRP in Bethpage was located within the radioactive fallout zone of a covered facility in Hicksville, a uranium factory operated by Sylvania, et. al. At its peak in 1986 Grumman employed 23,000 people on Long Island – **that should all be covered under the EEOICPA** -- and occupied 6,000,000 square feet in structures on 105 acres it leased from the U.S. Navy: **the contaminated Bethpage NWIRP**.

In 1994 Northrop bought Grumman for \$2.1 billion to form Northrop Grumman after Northrop topped a \$1.9 billion offer from Martin Marietta. The new company closed almost all of its Long Island facilities – without remediation of Grumman’s or the Navy’s toxic, onsite dumps or toxic groundwater plumes, currently the subject of litigation and a request by Congressman King to make them federal Superfund sites. (See “**The Limitations of Wellhead Treatment Bethpage and Massapequa, Long Island, New York**” by Lenny Siegel (July, 2011 @ www.cpeo.org/pubs/Bethpage.pdf & “**GRUMMAN PLUME THREATENS WATER QUALITY ON LONG ISLAND**” @ www.massapequawater.com/grumman.shtml)

The Bethpage NWIRP and/or Grumman’s dumps were converted to a residential and office complex (with its headquarters at 1111 Stewart Avenue becoming the corporate headquarters for Cablevision) and the Calverton plant was turned into an airport that is being developed by the Town of Riverhead, NY. A portion of the airport property has been used for the Grumman Memorial Park. Northrop Grumman’s remaining business at the Bethpage campus is the Battle Management and Engagement Systems Division, which employs over a thousand people at a site that should have been declared a federal Superfund site; in addition to BNL the Calverton & Bethpage NWIRPs.

Grumman Should be a Covered Facility

According to Table I and EEOICPA rules in Table II, as well as the fact that Grumman’s Calverton Facility is a few miles from BNL -- well within its 200-300-square mile radioactive fallout zone, the following erroneous findings by Ms. Bender should also be disregarded: “**In order to establish covered employment, it must be shown that you were working on site at Brookhaven National Laboratory while Northrop-Grumman had a contract with the DOE, and that your work activities constitute a covered service other than the delivery of goods**”.

My covered employment activities under consulting and subcontracts between Hazeltine & Grumman constituted covered services that benefited the AEC, ERDA, DOE and/or BNL at contaminated, covered facilities, based upon the following definition from Table II:

- **Department of Energy (DOE) Facilities.** “**A DOE facility means any building, structure, or premise, including the grounds upon which such building, structure, or premise is located in which operations are, or have been, conducted by, or on behalf of, the DOE, except for buildings, structures, premises, grounds, or operations covered by Executive Order 12344, dated February 1, 1982, pertaining to the Naval Nuclear Propulsion Program and with regard to which the DOE has or had either (A) a proprietary interest; or (B) entered into a contract with an entity to provide management and operation, management and integration, environmental remediation services, construction, or maintenance services.**”
- **NOTE:** This definition of a covered facility does not exclude a covered-subcontractor facility located

within BNL's 200-300 square mile radioactive fallout zone that extends miles outside its fence line, according to excerpts from AEC/ERDA/DOE-funded reports submitted to Ms. Bender and linked to www.gfxtechnology.com/BNL.html, e.g.:

- **"RADIOLOGICAL EMISSIONS AND ENVIRONMENTAL MONITORING FOR BROOKHAVEN NATIONAL LABORATORY, 1947 -1961"** reveals enormous nuclear fallout from 29 uranium fuel cartridge explosions between 1952 & 1957 &
- Twelve (12) Radiation Reports Show Long Island shipped radioactive food that continues to poison millions of Americans: 1947-1961 -- 1962 -- 1964 -- 1966 -- 1970 --1974 -- 1975 ---1976 -- 1979 -- 1980 -- 1981 -- 1982.

Please take notice that neither Grumman nor Navy managers of the Calverton & Bethpage NWIRPs ever warned us about BNL's radioactive fallout, or their radioactive well water or the radioactive water flowing in the Peconic River that cuts through Grumman's Peconic River facility. Additionally, Table I proves Ms. Bender misrepresented the following Subcontractor, Contractor & Service definitions in Table II:

Subcontractor Employment: *Subcontractor employment at beryllium vendors and DOE facilities is covered under the Act, provided that certain developmental elements are met.*

a. Definitions.

(1) **Contractor.** *An entity engaged in a contractual business arrangement with DOE to provide services, produce material or manage operations.*

(2) **Subcontractor.** *An entity engaged in a contracted business arrangement with a contractor to provide a service on-site.*

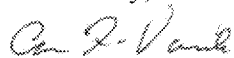
(3) **Service.** *In order for an individual working for a subcontractor to be determined to have performed a "service" at a covered facility, the individual must have performed work or labor for the benefit of another within the boundaries of the facility. Examples of workers providing such services include janitors, construction and maintenance workers. The delivery and loading or unloading of goods alone is not a service and is not covered for any occupation, including workers involved in the delivery and loading or unloading of goods for construction and/or maintenance activities.*

As I have complained many times to no avail, Kimberly Bender, Amrene K. Smith, Tracy Smart, Lora Yancy, David F. Howell, Amanda Wine, Glen S. Podansky, Miriam Bartos & others should all be prosecuted for waste, fraud, abuse and suborning federal crimes, including extortion by FOIA Officer Miriam Bartos. (See emails and letters in Exhibit IV.)

Ms. Bender should also be prohibited from handling my case when it's remanded for a second time.

WHEREFORE, for the reasons stated above, it is respectfully submitted that Kimberly Bender's **EXPLANATION OF FINDINGS & CONCLUSIONS OF Law** in her **NOTICE OF RECOMMENDED DECISION** dated September 7th 2012 are erroneous as applied to the Grumman and must be set aside, especially since Judge Chanis ruled I am eligible for compensation under the EEOICPA and that the New York State Worker's Compensation Board lacks jurisdiction because I filed an EEOICPA claim, as discussed in my November 4th 2012 letter to you entitled **OBJECTION RE: NORTHROP-GRUMMAN**.

Yours truly,



Dr. Carmine F. Vasile

Rule	Table II: Rules In EEOICPA Procedure Manual 2-500 Sections That Were Disregarded and/or Misrepresented By Kimberly Bender
¶4(c)	Department of Energy (DOE) Facilities. <i>A DOE facility means any building, structure, or premise, including the grounds upon which such building, structure, or premise is located in which operations are, or have been, conducted by, or on behalf of, the DOE, except for buildings, structures, premises, grounds, or operations covered by Executive Order 12344, dated February 1, 1982, pertaining to the Naval Nuclear Propulsion Program and with regard to which the DOE has or had either (A) a proprietary interest; or (B) entered into a contract with an entity to provide management and operation, management and integration, environmental remediation services, construction, or maintenance services.</i>

¶9f	Document Acquisition Request (DAR) Processes: <i>“For cases involving DOE contractor employees, the CE or resource center makes a request to DOE for records useful for developing information regarding toxic exposures. Although DAR records are predominately used in the adjudication of the toxic exposure component of Part E cases, DAR records can also contribute to the evidence of covered employment, especially in cases involving DOE subcontractor employment, which is further described in paragraph 14 of this chapter. DAR records can include site medical records, job descriptions, radiological records, incident or accident reports and others. Generally, a request for DAR records is only made of DOE once employment is confirmed. However, some DOE operations offices have stated that they prefer to receive the DAR request at the same time as they receive the EE-5. If resource center or district office staff are aware of such a situation, they include the request for DAR records in the EE-5 package. The point of contact at DOE for DAR records is also included in EPOD. For more details on the DAR process, refer to Chapter 2-0700 of this manual.”</i>
¶9(g)	Dosimetry Records: <i>It is general program policy for NIOSH to obtain dosimetry records from DOE as part of the dose reconstruction process. The dosimetry records become associated with the file when the district office receives NIOSH’s dose reconstruction report. Nevertheless, in instances in which dose records may be useful for confirming that an individual was on site or was monitored for radiation exposure the CE may request such records from DOE as part of employment development.</i>
¶10	Contacting Corporate Verifiers: <i>Many of the facilities designated under EEOICPA are operated by private companies and neither DOE nor any of its predecessors have possession of the employment or personnel records. However, many of these companies are still in business, or have been bought by other companies which have maintained records of past employees. Many of these companies have agreed to provide employment verification for purposes of adjudicating claims under EEOICPA. These companies are referred to as corporate verifiers. For each facility that has been identified as having a corporate verifier, EPOD provides the name and contact information for the corporate verifier. The CE is to follow the instructions listed in EPOD to obtain such employment information. General procedures for handling corporate verifiers include...</i>
¶13	Other Employment Evidence Other Employment Evidence: <i>“Evidence of employment by DOE, a DOE contractor, beryllium vendor, or atomic weapons employer may be made by the submission of any trustworthy contemporaneous records that on their face, or in conjunction with other such records, establish that the employee was so employed, and the location and time period of such employment. No single document noted in this section is likely to provide all elements needed for a finding of covered employment, but rather each piece of evidence can contribute valuable elements needed to make a finding of covered employment.”</i>
¶14	Subcontractor Employment: <i>Subcontractor employment at beryllium vendors and DOE facilities is covered under the Act, provided that certain developmental elements are met.</i> <ol style="list-style-type: none"> a. Definitions. <ol style="list-style-type: none"> (1) Contractor. <i>An entity engaged in a contractual business arrangement with DOE to provide services, produce material or manage operations.</i> (2) Subcontractor. <i>An entity engaged in a contracted business arrangement with a contractor to provide a service on-site.</i> (3) Service. <i>In order for an individual working for a subcontractor to be determined to have performed a “service” at a covered facility, the individual must have performed work or labor for the benefit of another within the boundaries of the facility. Examples of workers providing such services include janitors, construction and maintenance workers. The delivery and loading or unloading of goods alone is not a service and is not covered for any occupation, including workers involved in the delivery and loading or unloading of goods for construction and/or maintenance activities.</i> (4) Contract. <i>An agreement to perform a service in exchange for compensation, usually memorialized by a memorandum of understanding, a cooperative agreement, an actual written contract, or any form of written or implied agreement is considered a contract for the purpose of determining whether an entity is a “DOE contractor.”</i> b. Standard. <i>Mere presence on the premises of a facility does not confer covered employment. There are three developmental components that must be met before a decision of covered subcontractor employment can be reached. These elements are:</i> <ol style="list-style-type: none"> (1) <i>the claimed period of employment occurred during the covered time frame as alleged, and</i> (2) <i>a contract to provide “covered services” existed between the claimed subcontractor and a contractor at the facility or the identified vendor (during the covered time frame), and</i> (3) <i>the employment activities (work or labor) took place on the premises of the covered facility..</i>